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FISCAL IMPACT STATEMENT

LS 7125

BILL NUMBER: SB 339

NOTE PREPARED: Feb 27, 2007

BILL AMENDED: Feb 26, 2007

SUBJECT: Alcoholic Beverage Matters.

FIRST AUTHOR: Sen. Riegsecker

FIRST SPONSOR: Rep. Van Haaften

BILL STATUS: As Passed Senate

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☐ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: (Amended) *Definition of Grocery Store:* This bill defines "grocery store" for purposes of the law concerning alcohol and tobacco. The bill also allows the Alcohol and Tobacco Commission (ATC) to renew or transfer ownership of a beer dealer's permit for a beer dealer who: (1) held a permit before July 1, 2007; and (2) does not qualify for a permit as a grocery store.

Alcohol Displays: This bill requires a liquor dealer permittee (other than a package liquor store) to: (1) display alcohol in a clearly designated area where the presence of a minor is prohibited without a parent or guardian who is at least 21 years of age; or (2) meet other security measures concerning the display of liquor.

ATC Inspections: The bill also requires the ATC to: (1) conduct random unannounced inspections of locations where alcoholic beverages are sold or distributed; and (2) investigate the desirability of a permit in regard to the potential geographic location of the permit. The bill allows a person at least 18 years of age and less than 21 years of age to receive or purchase alcoholic beverages as part of an enforcement action.

Beer Dealer Permit Quota Change: This bill reduces the number of beer dealer permits authorized by the quota that may be issued within certain cities or towns.

Dealer Residency Requirements: The bill also eliminates residency requirements for dealers.

Penalties for Sales to Minors: This bill provides for graduated civil penalties against a permittee for repeat violations of furnishing alcohol to a minor on the licensed premises and for the collected penalties to be deposited in the enforcement and administration fund.

Effective Date: July 1, 2007.

Explanation of State Expenditures: This bill will cause an increase in administrative costs for the Alcohol and Tobacco Commission (ATC). The ATC will have to amend rules, forms, permit, and enforcement procedures to implement the provisions of this bill. It is estimated that these changes could be made through the use of existing staff and resources available to the ATC.

(Revised) This bill also requires the ATC, upon application for a new permit or transfer of a location of an existing permit, to investigate the desirability of the permit in regard to the potential geographical location of the permit. The bill provides that the ATC may consider the following in conducting this investigation:

- (1) The need for the services at the requested location of the permit.
- (2) The desire of the neighborhood or the community to receive the services.
- (3) The impact of the services on other business in the neighborhood or community.
- (4) The impact of the services on the neighborhood or community.

The impact of this provision on the administrative expenditures of the ATC is indeterminable and will ultimately depend upon administrative decisions of the ATC in choosing the extent of the required investigations. The impact of this provision will also depend upon the cost of the current investigation procedures of the ATC. The language of this provision mirrors language contained in the ATC's administrative rules at 905 IAC 1-27-4.

Explanation of State Revenues: (Revised) *Definition of Grocery Store:* This bill defines grocery store as a store or a part of a store that:

- (1) has the primary North American Industry Classification System (NAICS) classification 445110, 445299, 452910, 445120, or 447110; and
- (2) offers for sale all of the following:
 - (A) Fine wines.
 - (B) Specialty beers.
 - (C) Gourmet cooking and wine accessories.
 - (D) Meats.
 - (E) Cheeses.
 - (F) Package specialty foods.

The bill provides that the definition of grocery store does NOT include a store or part of a store that has a NAICS code of 447190, which is a gasoline station without a convenience store.

This bill's impact on dealer permit fee revenue is indeterminable. The impact on fee revenue will ultimately depend on the administrative actions of the ATC, and the number of permits issued to dealer's that previously may not have qualified as a grocery store. According to the ATC there are approximately 1,240 grocery store dealer permits issued under IC 7.1-3-5-2.

The bill gives the ATC the option of renewing or transferring ownership of a beer dealer's permit for a grocery store held by a permittee who falls outside this new definition of grocery store in the bill. Therefore, the total number of permits issued may not decrease.

The definition of grocery store in the bill could include convenience stores (NAICS code 445120), grocery stores (other than convenience stores) (NAICS code 445110), all other specialty food stores (NAICS code 445299), warehouse clubs and superstores (NAICS code 452910), and gas stations with convenience stores (NAICS code 447110).

(Revised) *Alcohol Displays*: The bill requires a liquor dealer permittee (other than a package liquor store) to EITHER:

- (1) display alcohol in a clearly designated area where the presence of a minor is prohibited without a parent or guardian who is at least 21 years of age; or
- (2) use at least 1 of the following security measures:
 - (A) The liquor is displayed behind a retail counter or in a locked display case.
 - (B) Each bottle of liquor for sale on the licensed premises has a security cap if the bottle of liquor is capable of having a security cap.
 - (C) The liquor is displayed adjacent to a drug store counter.
 - (D) The area in which the liquor is displayed is under video surveillance.

This provision of the bill will only have a fiscal impact to the extent that alcohol sales are affected by the display requirements set forth in the bill (also see *Background on Alcohol Sales*: section below). The impact of this bill on state revenues is indeterminable. This bill could decrease dealer permit fee revenue, as well as Sales Tax and Alcoholic Beverage Tax collections.

(Revised) *Beer Dealer Permit Quota Change*: This bill changes the quota for issuance of beer dealer permits. The changes are reflected in the table below. These provisions will have a fiscal impact to the extent that a different number of beer dealer permits could be issued in a city or town than what could be issued under current law. The amount of the impact is indeterminable, but it is estimated that these quota changes will cause a decrease in the number of permits issued in incorporated cities and towns.

| Beer Dealer Permit Quota Changes | | |
|--|----------------------|--------------------------------------|
| CURRENT LAW | | |
| Description | Population Parameter | Permit Quota |
| Incorporated City or Town or Unincorporated Town | None | 1 per 1,500 people |
| UNDER THE BILL | | |
| Description | Population Parameter | Permit Quota |
| Unincorporated Town | None | 1 per 1,500 people |
| Incorporated City or Town | = < 15,000 | 1 per 1,500 people |
| Incorporated City or Town | 15,000 < X < 80,000 | Greater of 1 per 3,000 or 10 permits |
| Incorporated City or Town | 80,000 < X | Greater of 1 per 5,000 or 27 permits |

(Revised) *Dealer Residency Requirements*: The bill also eliminates residency requirements for dealers. To the extent that eliminating these residency requirements increases the number of applications for dealer permits filed by nonresidents there could be an increase in dealer permit fee revenue.

(Revised) *Penalties for Sales to Minors*: The bill establishes civil penalties for an alcohol permit holder, the holder's agent, or the holder's employee that furnishes alcohol to a minor. Any civil penalties collected would increase revenue to the Enforcement and Administration Fund (EAF). The bill provides that any fines

collected under this provision shall be deposited in the EAF.

Background on Dealer Permit Fee: The fee for a beer, liquor, or wine dealer permit is \$500 each, paid annually. These fees are deposited in the Excise Fund, and then redistributed 37% to the state General Fund, 33% to the general funds of cities, towns and counties, and 30% to the Enforcement and Administration Fund.

Background on Alcohol Sales: To the extent that any of the provisions of this bill affect alcoholic beverage sales, state revenues will be impacted. Sales changes will affect collections of both alcoholic beverage excise taxes and the Sales Tax. The alcoholic beverage excise taxes are distributed in varying amounts to the following funds: state General Fund, the Post War Construction Fund, the ATC Enforcement and Administration Fund, the Addiction Services Fund, and the Wine Grape Market Development Fund. The state retains 50% of the General Fund distribution of beer and wine excise tax revenue. The remainder is distributed to cities and towns based on population. Sales Tax revenue is deposited in the: Property Tax Replacement Fund (50%), the state General Fund (49.192%), the Public Mass Transportation Fund (0.635%), the Commuter Rail Service Fund (0.14%), and the Industrial Rail Service Fund (0.033%).

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Alcohol and Tobacco Commission.

Local Agencies Affected: Trial courts; local law enforcement agencies.

Information Sources: ATC Permit Count, October 2006.

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